

Amendment
Serial No. 09/987,901
Attorney Docket No. 011543

REMARKS

Claims 1-3 and 5-9 are pending in the present application and are rejected. Claims 1, 2, 6, 8 and 9 are herein amended.

Applicants' Response to Claim Rejections under 35 U.S.C. §103

Claims 1-3, 8 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hayashi (JP 07-41244).

It is the position of the Office Action that Hayashi discloses the invention as claimed. Hayashi discloses a strip-shaped carried article folding device. Figures 2 and 3 illustrate front views of the device, while Figure 4 illustrates a side view. As illustrated in Figure 1, a conveyance object 1 is conveyed through suspension conveyance section 4 into guide object 5, which pivots back and forth along a fixed axis. As illustrated in Figure 3, the pivoting motion is performed by rocking controlling mechanism 6, which includes endless belt V, pulley P, guide rail 14, migration member 15, connection member 16 and connection lever 17. Furthermore, Hayashi includes a band-like conveyance object guidance member 8, which acts to extend a tabular clinch guide plate 8A beyond the edge of guide object 5, using cylinder equipment 20, according to controlling mechanism 9. It is noted that only a single tabular clinch plate 8A is extended beyond the edge of guide object 5 when the guide object 5 swings to one direction. Finally, Hayashi discloses raising or lowering the entire device using rise-and-fall controlling mechanism 7, which includes rise-and-fall driving gear 18 and screw lever 19.

Amendment
Serial No. 09/987,901
Attorney Docket No. 011543

With respect to the swing operation motor being disposed in the axis of pivoting, as noted above, Figure 3 is a front view, while Figure 4 is a side view of the device. Thus, in Figure 4, the swing direction of the guide object 5 is “into” and “out of” the page. This swing motion is driven by rocking driving gear 10, which drives pulley P on which endless belt V is disposed. It appears that endless belt V is fixed to migration member 15. The movement of endless belt V and migration member 15 causes the connection member 16 and connection lever 17, which are attached to guide object 5, to pivot. In Figure 4, the axis of pivoting is not illustrated. However, it appears that the axis would be an imaginary horizontal line which runs through the top of guide object 5 in Figure 4. It appears that there is a unlabelled connector between the guide object 5 and rocking driving gear 10 along this axis. This does not appear to drive the guide object 5, but rather, only acts to stabilize the pivoting axis. However, it appears that the Office Action broadly interprets driving gear 10 be disposed in the axis of pivoting.

Further, it is the position of the Office Action that Hayashi discloses in Figure 4 a swing arm which is pivoted about its axis by a swing operation motor disposed in the swing axis. The Office Action also states that although Hayashi does not disclose a telescoping motor, it discloses a telescoping actuator cylinder assembly. The Office Action “takes OFFICIAL NOTICE that motors and cylinders are well known in the art as alternatives for actuating mechanical movement.”

First, Applicants respectfully submit that while motors and cylinders may be considered to be alternative means of actuation, it is clear that motors and cylinders are not *equivalents*, since each of motors and cylinders impart particular benefits and drawbacks. Thus, Applicants

Amendment
Serial No. 09/987,901
Attorney Docket No. 011543

respectfully submit that motors and cylinders are not *equivalents*. According to MPEP §2144.06, “[i]n order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. *In re Ruff*, 256 F.2d 590, 118 USPQ 340 (CCPA 1958).” The Office Action has provided no suggestion or motivation why one having ordinary skill in the art would be motivated to modify the cylinders of Hayashi by substituting a motor, which is not an equivalent device. Therefore, Applicants respectfully submit that even if the Official Notice is accurate, the Examiner has still provided insufficient rationale for the pending rejection.

Furthermore, Applicants herein amend the independent claims in order to further distinguish over the cited art. Specifically, Applicants herein amend the independent claims in order to recite that “said sub-arm has a pair of plate members that both project from the tip of said arm main body when the swing arm swings to either side.” This is clearly illustrated in Figures 5A and 5B, and discussed in the specification at page 10, line 36 *et seq.* The telescoping motor 123 rotates the pinion 120, which in turn moves the rack 119. Movement of rack 119 then moves both of the plate members 96 and 111.

On the other hand, Hayashi discloses an apparatus having two band-like conveyance object guidance members 8, which each act to extend a tabular clinch guide plate 8A beyond the edge of guide object 5. This is done using two cylinders 20, each actuated according to a controlling mechanism 9. In Hayashi, only a single clinch guide member 8A is extended when the swing arm swings in either direction. In other words, when the swing arm swings in one

Amendment
Serial No. 09/987,901
Attorney Docket No. 011543

direction, one clinch guide member 8A is retracted, while the other is extended. Please see Figure 3 of Hayashi. Therefore, for at least the above reasons, Applicants respectfully submit that the combination of Hayashi and Official Notice does not disclose or suggest the invention as claimed. Favorable reconsideration is respectfully requested.

Claims 5-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hayashi (JP 07-41244) in view of Martin et al. (U.S. Patent No. 5,062,597).

It is the position of the Office Action that Hayashi discloses the invention as claimed, with the exception of a table that moves vertically and a detection mechanism for controlling vertical movement of the table, the device being in use with a printing apparatus, and a creasing mechanism for creasing the continuous paper in equal widths. The Office Action relies on Martin to provide this teaching.

In response, Applicants respectfully submit that claim 5 is patentable due to its dependency on claim 1, which Applicants submit is patentable for at least the reasons discussed above. With regard to independent claim 6, Applicants respectfully submit that this claim is patentable for reasons similar to that of claims 1, 2, 8 and 9, discussed above. Accordingly, Applicants respectfully submit that claim 7 is patentable due to its dependency on claim 6. Favorable reconsideration is respectfully requested.

For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

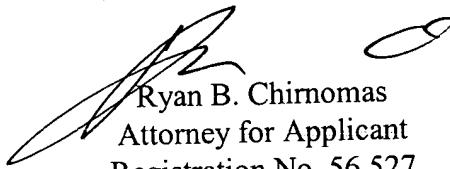
Amendment
Serial No. 09/987,901
Attorney Docket No. 011543

Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicant's undersigned agent.

If this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Ryan B. Chirnomas
Attorney for Applicant
Registration No. 56,527
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

RBC/jl